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C O N F I D E N T I A L LA PAZ 002217

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TAGS: [ECON](#) [EMIN](#) [EINV](#) [BL](#)

SUBJECT: TAX CHANGES POSE SERIOUS PROBLEMS FOR U.S. MINE

REF: A. LA PAZ 2090

- [¶B.](#) LA PAZ 1847
- [¶C.](#) LA PAZ 1840
- [¶D.](#) LA PAZ 1740

Classified By: Ambassador Philip Goldberg for reasons 1.4b,d

Summary

¶1. (C) On August 1, Ambassador Goldberg met with executives from Apex Silver, Sumitomo Corporation, and San Cristobal mine (which is jointly owned by Apex and Sumitomo) to discuss the future of the mine and the impact of the proposed changes to Bolivia's mining code and tax regime. The outlook is difficult for San Cristobal right now, since the GOB's proposed tax changes are particularly onerous for companies which produce concentrate instead of metals and the GOB's proposed elimination of refunds on import taxes would only also apply to companies that produce concentrate (ref D, note: San Cristobal is the only major U.S. mine in Bolivia that produces concentrate instead of metal. End note.) The GOB's proposal to eliminate the right of mining companies to mortgage their reserves is also potentially devastating to San Cristobal. Because San Cristobal had to hedge on metal prices in order to obtain loans, in aggregate the changes proposed by the GOB pose a serious threat to the mine (when hedge costs are factored in to the overall cost structure, San Cristobal estimates that the proposed tax regime will yield the GOB a 93 percent effective tax rate, and if the refunds on import taxes are eliminated, the GOB's take would be more than 100 percent.)

San Cristobal's Meetings with Ministers

¶12. (C) Ambassador Goldberg spoke to Vice President Garcia Linera by phone after his meeting with the San Cristobal group to ask the Vice President to encourage a meaningful and productive meeting with the mining minister. In a seemingly positive development, Mining Minister Echazu agreed to meet with Apex and Sumitomo representatives the afternoon of August 1 and Minister of Presidency Quintana accepted a meeting for August 2. In what has become familiar for San Cristobal executives but reportedly surprised and offended the Japanese visitors, both Echazu and Quintana were not available when the Apex/Sumitomo party arrived at their offices (note: Minister Echazu had been called to Congress, where the new mining tax code passed the lower house the night of his scheduled meeting. End note.) Minister Echazu eventually rescheduled and Apex/Sumitomo financial experts were also able to meet with the Mining Ministry's technical team.

¶13. (C) Mine executives told Emboff that they were pleased to hear Minister Echazu say that his ministry does not support the elimination of the CEDEIMS import tax refund program, which has been proposed by the Ministry of Finance (ref D.) Less encouragingly, the Minister seemed completely surprised by San Cristobal's costs estimates. (Note: although the mine has offered to share this information many times in the past, the Minister never agreed to meet with them before. End note.) Minister Echazu reportedly said that he was now faced with a problem: he had spoken to Vice President Linera the night before and the Vice President had quoted the 90 percent figure (which Ambassador Goldberg had mentioned to the Vice President,) but Minister Echazu had told the Vice President that this number was false. Now, facing evidence that the number is true, Minister Echazu is in the difficult position of having misled his boss.

¶14. (C) Since the new mining tax code passed the lower house of Congress without any input from the mining industry, the San Cristobal executives asked Minister Echazu what could be done to modify the new tax code. According to San Cristobal executives, Minister Echazu seemed uncomfortable: having supported the new tax code and ignored the pleas of the industry, he did not want to have to approach his superiors with new information a day too late. Minister Echazu suggested that the only way to change the law would be to lobby the Senate, warning that the ruling Movement Toward Socialism (MAS) party senators had already been told to pass the bill as is. Minister Echazu suggested that San Cristobal approach opposition PODEMOS Senators and ask them to modify the bill.

¶15. (C) Apex, Sumitomo, and San Cristobal executives explained in their meeting with Mining Minister Echazu that they hoped to arrange the inclusion of a tax stability clause in the new tax code. Initially they suggested a period of five years, which would cover the four and half years that Apex had to hedge its prices in order to obtain loans. Minister Echazu reportedly reacted favorably toward this kind of modification of the bill, and Elidoro Sandy, head of the ministry's political unit, reportedly added that this kind of tax-stability measure is common in other countries, listing Chile, Peru and Argentina as examples. After the meeting, Apex, Sumitomo, and San Cristobal executives drafted a clause which they will lobby for inclusion by the Senate. The addition will include a series of tax-stability periods ranging from three to ten years, based on the level of investment in the mine; San Cristobal would fall in the ten year category. (Note: As envisioned by San Cristobal, only San Cristobal, San Bartolome, and Jindal's Mutun would be large enough to benefit from this tax-stability regime. During the meeting, Minister Echazu was reportedly concerned that Glencore operations might benefit and seemed relieved when reassured that Glencore would not benefit under this proposal (ref C.) End note.)

¶16. (C) The Mining Ministry's technical team met on August 3 with Apex and San Cristobal financial experts to discuss the mine's cost estimates. The technical team discovered that

one reason for the discrepancy between the GOB's cost estimates and the mining industry's estimates was that the Mining Ministry technical team was unaware of the existence of a regulation that specifies how to calculate surtax; the ministry was also not including all costs that the mining industry included in its estimates. San Cristobal provided the mining ministry with a copy of the surtax-calculation regulation, and the Mining Ministry technical team is currently reviewing the numbers. Whereas San Cristobal executives expect to be challenged on some specifics, they are hopeful that the GOB will now accept more input from the mining companies.

Public Attention and Embassy Involvement

17. (C) In order to get the attention of the GOB, San Cristobal has been trying to gain public support through the media: recent news articles have stated that the GOB's proposed tax changes threaten San Cristobal and highlight the benefits of the project to Bolivia. One article also quoted an unnamed source within San Cristobal who described the company's lobbying efforts in support of extension of the Andean Trade Preference Drug Enforcement Agreement (ATPDEA) (refs C and D). (Note: Apex executives report that they intend to continue lobbying for ATPDEA in an attempt to gain favor with the GOB.) During their meeting with the Ambassador, Apex and Sumitomo executives emphasized how helpful the Ambassador's calls to Vice President Garcia Linera have been (ref B.) Coeur D'Alene's San Bartolome President Jim Duff has also asked that the Ambassador try to arrange a meeting between the three big U.S. mining concerns (Coeur D'Alene's San Bartolome, Apex's San Cristobal, and Newmont's Inti Raymi) and the Vice President. Ambassador Goldberg visited one of Newmont's two gold mines on August 3.

Comment

18. (C) San Cristobal is the largest mining operation in Bolivia, and much of their projected USD900 million investment is already in place. In comparison, Jindal Steel and Power has promised to invest USD2.1 billion, but so far no investment has been made and the contract has not been approved by Congress (ref A). Nevertheless, President Morales is hailing the Jindal agreement as a huge win for Bolivia and participated in a public contract signing ceremony, while he is not willing to meet with executives of San Cristobal. In their eagerness to showcase Jindal's Mutun project as a new, non-U.S. investment which validates the GOB's policies and refutes international concerns about investing in Bolivia, the GOB is treating Jindal much differently than other international mining operations, at least publicly. Jindal is scheduled to produce concentrate for two or more years before steel-production can begin at the site: it will be interesting to see if the GOB somehow exempts Jindal from the more stringent tax situation that could soon apply to companies that produce concentrate (refs C and D). Since Jindal's Mutun mine would be one of only three operations to benefit from San Cristobal's proposed tax-stability modification to the tax bill, San Cristobal and San Bartolome may decide to work with Jindal on this issue, although they say they have no plans to do so at present.
End comment.

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